

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHIRLEY V. REMMERT,)
Petitioner,) No. C 17-3856 CRB (PR)
vs.) ORDER OF DISMISSAL
CARLOS BOLANOS, Sheriff,) (ECF Nos. 3 & 13)
Respondent.)

)

Petitioner Shirley V. Remmet, a detainee at the San Mateo County Jail awaiting sentencing after a state superior court jury found her guilty of theft/ embezzlement of an elder or dependent person by a caretaker and related offenses, has filed a pro se petition for a writ of habeas corpus challenging the state criminal proceedings against her. She also seeks leave to proceed in forma pauperis (IFP) and appointment of counsel.

Petitioner may challenge her pre-sentence detention on state criminal charges by way of a petition for a writ of habeas corpus under 28 U.S.C. § 2241. But principles of comity and federalism require that this court abstain and not entertain any such pre-sentence habeas challenge unless petitioner shows that: (1) she has exhausted available state judicial remedies, and (2) “special circumstances” warrant federal intervention. Carden v. Montana, 626 F.2d 82, 83-84 (9th Cir. 1980). Only in cases of proven harassment or prosecutions undertaken by state officials in bad faith without hope of obtaining a valid

1 conviction and perhaps in other special circumstances where irreparable injury
2 can be shown is federal injunctive relief against ongoing state prosecutions
3 appropriate. Id. at 84 (citing Perez v. Ledesma, 401 U.S. 82, 85 (1971)).
4 Petitioner makes no such showing of “special circumstances” warranting federal
5 intervention. See id. The petition for a writ of habeas corpus accordingly is
6 DISMISSED without prejudice to refiling after state criminal proceedings,
7 including sentencing and appeal, are completed.

8 Based solely on her affidavit of poverty, petitioner’s request to proceed
9 IFP (ECF No. 13) is granted. But her request for appointment of counsel (ECF
10 No. 3) is denied as moot.

11 SO ORDERED.

12 DATED: August 16, 2017



CHARLES R. BREYER
United States District Judge